

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

SEP 12 2006

DAVID J. MALAND, CLERK
BY
DEPUTY

UNITED STATES OF AMERICA

§

§

vs.

§

§

STEVEN ALLEN BEACH

§

Case No. 4:05CR95

(Judge Brown)

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on August 14, 2006 to determine whether the Defendant violated his supervised release. The Defendant was represented by Robert Arrambide. The Government was represented by Josh Burgess.

On December 10, 1997, the Defendant was sentenced by the Honorable United States District Judge Robert Junell to 60 months imprisonment followed by a 3-year term of supervised release for the offenses of Conspiracy and Possession of Unregistered Firearms. The term of supervised release was revoked on October 27, 2003, and the Defendant was sentenced to 9 months imprisonment followed by 15 months of supervised release. On July 1, 2004, Defendant was released from custody and again began service of his supervised term.

On June 14, 2005, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision. The petition asserted that the Defendant

violated the following conditions: (1) Defendant shall not commit another federal, state, or local crime and shall not illegally possess a controlled substance; (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or controlled substance or any paraphernalia related to any controlled substances; (3) Defendant is to abstain from the use of alcohol and/or all other intoxicants during the term of supervision; (4) Defendant shall participate in an approved substance abuse treatment program which may include urinalysis testing; and (5) Defendant shall reside in the comprehensive sanction center and successfully participate in the comprehensive sanction center program located at the Volunteers of America, 800 W. Wintergreen Rd., Hutchins, Texas, for 180 days.

The petition alleges that the Defendant committed the following acts: (1) On May 6, 2005, the Defendant was arrested for the offenses of Possession of Controlled Substance and Forgery; (2) On July 12, 2004, the Defendant submitted a urine specimen which tested positive for methamphetamine; (3) On November 12, 2004 and March 9, 2005, the Defendant submitted urine specimens which tested positive for cocaine; (4) On December 9, 2004, the Defendant failed to submit a urine specimen as directed; (5) On March 16, 2005, while residing in Volunteers of America, the Defendant submitted a urine specimen, but refused to sign the chain of custody drug analysis form, and thus, the specimen was untestable; and (6) On March 17, 2005, while residing in Volunteers of America, the Defendant was unsuccessfully discharged for failing to secure employment within 15 days of arrival,

being in an unauthorized area and failing to advise the facility of his whereabouts on February 15, 2005, forging the Employment Specialist signature on a Job Search Request, submitting a urine specimen that tested positive for cocaine on March 9, 2005, and failing to keep the facility advised of his whereabouts on March 16, 2005.

Prior to the Government putting on its case, the Defendant entered a plea of true to the above listed violations. At the hearing, the Court recommended that the Defendant's supervised release be revoked.

RECOMMENDATION

The Court recommends that the District Court revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of fifteen (15) months, to be served concurrently with the revocation sentence in cause number 1:02-CR-06 but consecutively to any other sentence, with no supervised release to follow.

Signed this 12 day of September, 2006.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE